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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourth session

SUMMARY RECORD OF THE 91st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 September 1993, at 10 a.m.

Chairperson: Mr. HAMMARBERG

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (Agenda item 8) (continued)

Initial report of Costa Rica (CRC/C/3/Add.8, CRC/4/WP.5)

1. The CHAIRPERSON invited the Costa Rican delegation, consisting of Mr. Jorge Rhenan Segura and Mr. Javier Rodriguez Alpiraz, Deputy Permanent Representative and Counsellor to the Permanent Mission at Geneva respectively, to take a place at the Committee table. After welcoming them, he invited the head of the delegation, Mr. Rhenan Segura, to introduce the Costa Rican Government's initial report (CRC/C/3/Add.8).

2. Mr. RHENAN SEGURA (Costa Rica), after introducing himself briefly, said that his country had been one of the first to ratify the Convention on the Rights of the Child. In order to implement it, the Government had established the National Committee on the Rights of the Child, presided over by the First Lady of the Republic, Mrs. Gloria Bejarano de Calderón. The Government Technical Commission, set up in 1991, had drafted the National Plan of Action for the Human Development of Children and Young People as well as an operational plan for achieving the objectives set forth in the Convention. He drew attention also to the activities of the last two years of the Office for the Defence of Children. Children had always been at the centre of Costa Rican priorities and he hoped that his delegation's forthcoming dialogue with the Committee would contribute to greater protection for children in his country and in the international community.

3. The CHAIRPERSON thanked Mr. Rhenan Segura for his introduction and invited the Costa Rican delegation to reply to the first seven questions on the Committee's list of issues (CRC/C/4/WP.5), concerning general measures of implementation, which read as follows:

"General measures of implementation

(Arts. 4, 42 and 44, para. 6 of the Convention)

1. Please provide more details about the process of preparing the report, in particular with regard to popular participation and the involvement of non-governmental organizations.

2. What concrete measures have been taken to make the report widely available to the public at large?

3. To what extent have school curricula been adjusted to give room for education about the Convention?

4. Please clarify the significance of the statement in paragraph 26 of the report, according to which the Convention has a higher legal rank than any other legislation.

5. Please comment on the progress made in amending previous laws to comply with the provisions of the Convention. Has the Minor's Code already been approved? If so, please provide a copy of the text.

6. To what extent is international cooperation designed in order to enhance the implementation of the Convention?

7. Are there plans to improve the collection of statistical data and other necessary information about the status of children? Please detail any further measures taken to ensure that the authorities obtain necessary information and data about the status of children as a basis for designing programmes for the rights of the child and whether there is a need for technical assistance in this regard."

4. Mr. RHENAN SEGURA (Costa Rica) said, in reply to the first question, that his country's initial report had been prepared on the basis of the guidelines for the form and content of reports to be submitted by States' parties under article 44 of the Convention (CRC/C/5). A number of NGOs concerned with promoting and protecting the rights of the child were studying the report. Discussions had been held in various workshops aimed at drafting programmes for protecting the rights of the child and implementing the Convention in Costa Rica.

5. Turning to question 2, he said that the report had been incorporated in the plan of work of the National Committee on the Rights of the Child. Various publicity campaigns had also been carried out by the bodies responsible for matters concerning children, and promotional mechanisms had been devised to that end.

6. In reply to question 3, he said that there was teaching on all the human rights instruments in Costa Rican primary and secondary schools and universities. The Convention on the Rights of the Child had prompted the preparation, publication and distribution of educational material for promoting activities designed to make the provisions of the Convention known. Those mechanisms were described in the report (pp. 10 and 11). Various projects had also been launched as part of school curricula and in regard to legislation.

7. In reply to question 4, he said that, under article 7 of the Costa Rican Constitution, international conventions took precedence over national legislation.

8. On question 5, he said that the "Minors' Code" had not yet been approved by the Legislative Assembly. The bill was currently before the Social Affairs Committee. In addition, the Office for the Defence of Children was to help in drafting the final version of the Minors' Code, taking care to ensure that the national legislation was in conformity with the provisions of the Convention from the point of view of both positive and procedural law.

9. Turning to question 6, he explained that international cooperation was not specifically designed to enhance the implementation of the Convention. UNICEF and a number of NGOs were very active in defending the rights of the child and ensured the coordination of measures on behalf of children in need

of special protection (disabled children, minors at risk, etc.). The Inter-American Children's Institute executed important programmes relating to children throughout the continent, including in Costa Rica.

10. On question 7, he said that Costa Rica had developed a system of indicators for analysing the situation of children in the country. The National Children's Trust, the Ministry of Planning and Economic Policy and the Directorate of Statistics and Censuses participated in the work. Other bodies also helped in the preparation of indicators for various questions related to children (Paniamor Foundation, "Somas del Mundo" Foundation, Inciensa, the National Children's Trust and the Ministry of Public Education). Coordination between those bodies made it possible to provide information and technical assistance services.

11. The CHAIRPERSON invited the members of the Committee to comment on the replies of the Costa Rican delegation.

12. Mr. MOMBESHORA thanked the Costa Rican delegation for the detailed information provided. However, he would like some additional information in the form of demographic statistics (area of Costa Rica, percentage of arable land, population under 18, population density, GDP, etc.). Such statistics would provide the Committee with a better understanding of the programmes for children.

13. The CHAIRPERSON reminded the Costa Rican delegation that States parties to the Convention were supposed to submit a core document for use by all the treaty bodies and invited Costa Rica to submit such a document.

14. Mrs. MASON said that she would like more details in regard to question 4. According to article 7 of the Constitution, the provisions of an international convention took precedence over ordinary law. According to the report, however, (para. 131), there was an Act No. 27 of 25 October 1932, which was to have become obsolete with the enactment of subsequent laws and the ratification of international treaties which had a rank superior to that of ordinary laws, such as the Convention on the Rights of the Child, but which had in fact not been repealed, with the result that some of its regulations were the only ones that were supposedly mandatory. It was her impression that the laws and provisions in force contradicted each other and she asked for an explanation of that discrepancy.

15. She also wondered whether the Convention could be invoked in the courts and what paragraph 134 of the report, which stated "a priority for the Commission on the Rights of the Child is to be able to present the country with a document which contains all the legal provisions in force, duly harmonized with the Convention" meant, when the ratification of the Convention on the Rights of the Child gave the Convention the force of law and set it above national law.

16. Mrs. SANTOS PAIS noted the positive elements in Costa Rica's initial report with satisfaction, particularly the way in which the Convention on the Rights of the Child had been accommodated within the national framework. In her view, it was important to have proper coordination activities on behalf of the rights of the child to enhance the participation of society through the

NGOs and to make the population of the rural areas more aware of children's issues. Like Mrs. Mason, she would like to know the exact status of the Convention vis-à-vis the national system of legislation. She noted with satisfaction that Costa Rica attached great importance to education and had even proposed instituting a decade for education in the rights of the child. She asked what role the Convention on the Rights of the Child played within that campaign.

17. Mrs. BELEMBAOGO welcomed the fact that Costa Rica had ratified most of the human rights instruments, especially the Convention on the Rights of the Child. She noted with satisfaction the steps taken by the Costa Rican Government to implement the Convention, including the establishment of a Government Technical Commission to draw up a national plan of action for children, which had been adopted in 1991, and a National Committee on the Rights of the Child. The Government had also strengthened the Office for the Defence of Children, started a project for compiling all the legal rules relating to minors, drawn up a special programme for children and set in motion a number of activities regarding information on the rights of the child at the national level. All those initiatives demonstrated the importance attached by the Government to implementing the Convention on the Rights of the Child. Nevertheless, she had a number of concerns. First, she found certain contradictions among the various national laws on the protection of children and asked whether the Government had taken steps to harmonize them all. Second, she asked what steps were being taken by the Costa Rican Government to protect children in the face of the economic and social imbalances that resulted from economic stabilization programmes accompanied by restrictions on the level of public spending in the social sectors.

18. Mrs. EUFEMIO said that she had not quite grasped the reply to question 7 because the representative of Costa Rica had spoken so quickly. She asked for more detail on the way in which activities for planning programmes concerning the rights of the child were coordinated. She recommended integrating the statistics in that field in order to avoid conflicting information and make it possible to measure changes in the situation of children more accurately.

19. Mgr. BAMBAREN GASTELUMENDI said that Costa Rica was fortunate in having known political stability for many decades. While he was gratified to learn of the activities of the First Lady of the Republic, he noted that the executive and the administration seemed to be somewhat out of step with one another and he would like more details in that connection. What was the membership and terms of reference of the Government Commission over which the First Lady presided? Also, since 53 per cent of the Costa Rican population lived in rural areas, he would like to know how information on children was disseminated in those areas.

20. Mrs. SARDENBERG welcomed the fact that Costa Rica had been one of the first countries to ratify the Convention and found its report particularly frank regarding the problems that remained in the field of the rights of the child. She would like further details on the way in which coordination among the different Government services operated and on community involvement in implementing the rights of the child. She also asked how the National Plan of

Action for Human Development, Children and Young People had been drawn up. Had the committees established to follow-up and publicize the Plan in specific areas already started working?

21. Mr. KOLOSOV said he would like to know what steps were taken to ensure that the report was widely publicized among the population. The report itself recognized that the public was not very familiar with the existing legislation. When the report had been publicized, had there been any reaction from non-governmental organizations, community groups, representatives of refugees or minorities? That information would be a good indicator of the degree to which the report had been disseminated among the population.

22. Mgr. BAMBAREN GASTELUMENDI asked for an explanation of paragraph 40 of the Costa Rican report, which implied that there had been difficulties of coordination with such external organizations as UNICEF and UNDP.

23. The CHAIRPERSON recalled that the Costa Rican authorities recognized that the country was currently facing difficulties related to the economic crisis. He asked what steps the authorities had taken or intended to take to implement the necessary structural adjustment measures without diminishing social protection for the most vulnerable groups of society. There was a risk of reaching a situation in which certain political circles might allow groups of children, for example, to be sacrificed, in social terms, to the demands of structural adjustment.

24. Mr. RHENAN SEGURA (Costa Rica) said that the Costa Rican Government considered that the various bodies set up under the international human rights instruments ought to be able to communicate to each other the general information sent to them by countries. However, he could give the members of the Committee some figures. Costa Rica had an area of 50,900 sq. kms and a population of 3 million. Forty eight per cent of the population was under the age of 18. Per capita annual income was 1,784 dollars. Forty per cent of the country was arable land and 25 per cent national parks. It should be noted that the army had been disbanded in 1948 and that there had been no coup d'état in Costa Rica since 1917.

25. Regarding the publicizing of the initial report (CRC/C/3/Add.8), he pointed out that the literacy rate in Costa Rica was 89 per cent. At the end of the report, moreover, in paragraph 371, there was a list of non-governmental organizations which had taken part in the preparation and dissemination of the report. In addition, as soon as the report had been completed, the President of the Republic had released it to the press, which had published lengthy extracts. The report had also been sent to schools and universities. In that connection, it should be mentioned that provision was made for civic education classes in primary schools. Teaching was given on the various international instruments and children were taught, through posters and calendars for example, what their rights and duties were with regard to the national legislation and the international instruments.

26. Mr. KOLOSOV said that he would like an explanation of paragraph 100 of the report, since the Costa Rican delegation appeared to attach importance to wide dissemination of the document.

27. Mrs. SANTOS PAIS said it was a positive development that society at large had participated in the preparation of the report, through the non-governmental organizations, and that the media were following the process. She asked whether the Costa Rican authorities had considered the possibility of providing all the population with copies of a document that would include the initial report, the summary records of the meetings and the Committee's conclusions.

28. Mrs. EUFEMIO said that the effectiveness of the steps taken could be evaluated only by using statistical indicators. That should be the procedure for each of the articles of the Convention.

29. Mr. RHENAN SEGURA (Costa Rica) said in reply to Mrs. Santos Pais that society was represented by a wide range of political parties. Furthermore, in each village there was a communal development association, the purpose of which was to assist needy families. There were also various non-governmental organizations, including religious organizations, which engaged in social activities. Still in reply to Mrs. Santos Pais, he said it would be ideal to publish two million copies of Costa Rica's report and distribute them to all the population. However, since Costa Rica's resources were limited, the sizeable sums which would have to be spent on such an undertaking could not then be used to meet the population's most urgent needs. To be properly understood, paragraph 100 of the report, to which Mr. Kolosov had referred, should be put back in context; it meant that Costa Rica's essential concern was to guarantee respect for human rights.

30. Mr. RODRIGUEZ ALPIZAR (Costa Rica) said that there was a General Directorate of Statistics and Censuses which was part of the Ministry of Planning and was responsible for compiling all the statistical data provided from various sources, including other Ministries.

31. The annexes referred to on the last page of the report, particularly annex II concerning indicators, could be consulted in Spanish at the Centre for Human Rights. Costa Rica was ready to provide the members of the Committee with any other statistical data they might need.

32. Mr. RHENAN SEGURA (Costa Rica), replying to questions from Mrs. Mason and Mrs. Belembaogo on the legal status of the Convention, explained that, under article 7 of the Costa Rican Constitution, public treaties, international conventions and agreements duly approved by the Legislative Assembly took precedence, from the date of promulgation or from the day specified in them, over ordinary laws. In practice, that meant that a provision of the Convention took precedence over any legal or regulatory provision that was incompatible with it and had not yet been repealed. It was to avoid such conflicts that a Constitutional Chamber had been created two years earlier to identify all legal provisions that were incompatible with the international instruments which Costa Rica had decided to ratify. It would then be the Legislative Assembly's task to repeal or amend those provisions before ratifying the international instruments themselves. Any regulatory provisions that were contrary to the international instruments could not all be repealed immediately without creating a dangerous legal vacuum.

33. In response to a question from Mrs. Santos Pais, he said that the Convention had not yet been invoked before the Costa Rican courts.

34. In reply to a question from Mgr. Bambaren Gastelumendi, he said it was true that there was sometimes in Costa Rica, as in any other country, a lack of coordination between the legislative and the executive powers. In that connection, he explained that there was a Government Technical Commission, presided over by the First Lady, which dealt with programmes relating to children and consisted of representatives of the Ministries of Justice, the Interior and Culture. Another body had also been set up in application of article 55 of the Constitution, namely, the Patronato nacional de la infancia (National Children's Trust). Its mandate was to protect mothers and children in collaboration with other government bodies. It was made up of lawyers, representatives of parents' associations, academics, one parliamentarian, and representatives of the Ministries of Education and Culture appointed by the executive. The Legislative Assembly could not adopt any law relating to children before having consulted the Patronato nacional de la infancia.

35. The CHAIRPERSON asked the delegation if there was an ombudsman responsible for defending the rights of children in Costa Rica.

36. Mr. RHENAN SEGURA (Costa Rica) said that there was an Office for the Defence of Children which was part of the Ministry of Justice. Its task was to give advice on matters falling within its terms of reference and to keep the population informed, in particular through the organization of round tables or conferences in educational establishments or prisons. In addition, a law had been adopted some months earlier appointing a people's advocate, who could be compared to the Swedish ombudsman, although he came under the legislative authorities. His mandate was to coordinate all the activities of the various organs for the defence of human rights which came under the Ministry of Justice.

37. Regarding education, it should be noted that schooling in Costa Rica was compulsory, that it was free up to the end of secondary school and that 20 per cent of the national budget was allocated to education. Costa Rica attached the greatest importance to education and had proposed both to the Commission on Human Rights and to the World Conference on Human Rights that the United Nations should proclaim a decade for education.

38. Mrs. SANTOS PAIS asked whether the Convention on the Rights of the Child had an important place in the decade for education project.

39. Mr. RHENAN SEGURA (Costa Rica) said that he would see that the Convention on the Rights of the Child figured prominently in the decade for education project, which was to be submitted to the United Nations General Assembly and in the preparation of which he was involved.

40. The CHAIRPERSON asked the Costa Rican delegation what problems arose in the area of cooperation with international bodies (see para. 40 of the report).

41. Mr. RHENAN SEGURA (Costa Rica) said that the Ministry of Planning and Economic Policy was responsible for coordinating cooperation with external

agencies. It must be acknowledged that coordination had been less than perfect because of initiatives taken by other Ministries. There was also a problem of coordination among the organizations of the United Nations system, such as UNESCO, UNICEF, ILO and WHO. Sometimes the programmes of the various organizations duplicated or clashed with each other. Costa Rica had frequently emphasized the need for coordination in various international bodies because its resources were very limited. It was important to add that often the NGOs had very specific programmes that clashed with the aid provided by the specialized agencies of the United Nations system and with the activities of Costa Rican governmental bodies. It would be useful to take the matter up again in greater detail.

42. The CHAIRPERSON said that the problem raised by the Costa Rican delegation would be brought to the attention of the organizations concerned. It was to be hoped that it would promote a discussion among the bodies of the United Nations system on the way in which confusion could be avoided, particularly in small countries which had limited capabilities for maintaining links with those institutions. He invited the Costa Rican delegation to reply to the questions put by the Committee members regarding priorities in the social field and the need to avoid the adverse effects of economic reforms.

43. Mr. RODRIGUEZ ALPIZAR (Costa Rica), replying to a question from Mrs. Balembaogo, referred the members of the Committee to paragraphs 3 and 4 of the report concerning the crisis of the 1980s and the deleterious effects which structural adjustment had had on the most economically deprived strata of the population. However, although social programmes had been reduced in the 1970s and 1980s, the amounts allocated to social welfare had increased in the 1990s.

44. Every year, the State provided 20,000 households with housing assistance. That assistance went to families whose annual income was less than 35,000 colones (about US$ 300) and covered 40 per cent of the cost of the housing. The rest was taken up by a national bank, the Banco Nacional para la Vivienda (National Housing Bank) which gave those families loans at very advantageous rates to be repaid over 20 years, after five years without repayment. There were also education grants for the purchase of uniforms and school supplies (schooling was free and compulsory for nine years). There were also food grants for families whose incomes were too low to provide for their most urgent needs. Those were allowances in the form not of money but of foodstuffs (rice, beans, eggs, meat, etc.). In addition, in nearly all public schools (more than 90 per cent), children who could not go home for lunch because their parents' incomes were too low, because they lived too far from the school or because of some disability, were entitled to free meals in the school canteen.

45. Wages were indexed to inflation. A National Wages Council, consisting of representatives of the public authorities, workers and employers met to discuss the percentage rises in the current minimum wage. The question of the wage scale was examined every six months; new scales came into effect in January and July. The aim was to mitigate somewhat the erosion of family purchasing power. The problem of disparities between social classes was not very acute in Costa Rica, but it did exist.

46. Mrs. BALEMBAOGO said that she very much regretted that there was no representative of the World Bank present. More and more was heard about the social dimension of structural adjustment programmes. Some countries had succeeded in ensuring that social concerns were taken into account. Had they arrived at that result through their negotiating efforts or because of their economic situation? Perhaps Costa Rica could continue to negotiate with the World Bank to see that the social aspects were not neglected.

47. The CHAIRPERSON asked how far Costa Rica had succeeded in remedying the problems mentioned in paragraph 4 of the report. The list of the grants made to the poorest people did not allow any exact calculation of the extent to which the country had succeeded in reversing the trend observed in the 1980s. According to article 4 of the Convention, which the Committee regarded as very important, States parties undertook to respond to the needs of children to the maximum extent of their available resources. Other provisions of the Convention, basically concerned with health and education, envisaged a progressive application of measures aimed at responding to children's needs that required sizeable resources. It was a matter of great concern to see that in some cases there was no progress and even a decline. Could the Costa Rican delegation describe in greater detail the real situation and the way in which the problems were being tackled in order to prevent children from being the victims of the economic situation?

48. Mr. MOMBESHORA, referring to the direct support given to children and low wage earners in respect of housing, food aid and wage adjustment, asked what happened in the case of families where the parents were unemployed and the children did not attend school and the families could not therefore benefit from the allowances mentioned by the delegation. Did they receive any direct support?

49. Mrs. SANTOS PAIS said that the Committee was particularly interested in the priority given to children in the allocation of resources at the national level. Did programmes on behalf of children receive much priority in the budget? To what extent were the best interests of children taken into account? Did children as a group receive priority in the budget?

50. Mr. RHENAN SEGURA (Costa Rica) said that, in the 1970s, Costa Rica, like many other countries, had established a welfare State based on a set of economic, social and political guarantees. In so doing it had won an enviable place in the international community. In the 1980s, as in many other Latin American countries, that welfare State had been eroded. The debt problem had been so serious that structural changes had had to be made, and social programmes amended. The debt problem was still there, despite the negotiations and renegotiations that had taken place and the repayment schedules that had been worked out. As an example, during the 1970s education had accounted for more than 35 per cent of the national budget; currently, it was only 21 per cent. There had also been decreases in the amounts allocated for health and housing. All the problems mentioned in paragraph 4 of the report still existed. For example, there were problems of family organization: more than 51 per cent of heads of families were single mothers. Public investment in a series of important social programmes had declined, but

the administration had tried to give some programmes special treatment, in particular those on behalf of children, single women with children and the most disadvantaged groups.

51. The Committee had asked for statistical data and more specific information on education and health. It might be recalled that UNDP placed Costa Rica in the category of countries with a high degree of human development. Overall, Costa Rica was in a transitional phase and would continue its forward march.

52. In reply to a question from Mrs. Santos Pais, he said that there were no budgetary resources allocated directly to children as a social group; resources were allocated to the bodies which executed the programmes.

53. The CHAIRPERSON noted with regret the statement that Costa Rica was no longer a welfare State. In that connection, the Committee would play its proper role under article 45 (b) of the Convention and would appeal to the donor community to assist the country.

54. Mr. RHENAN SEGURA (Costa Rica) said, in reply to the questions put by Mr. Mombeshora, that there were several arrangements for protection in the social welfare system in Costa Rica. The social security system protected the worker and all his family (parents and children). Social insurance contributions were used solely to finance the social security system. Each worker paid 8 per cent of his salary for that purpose, an equal amount being paid by the employer. In addition, 1 per cent of the worker's pay was deposited in the "Banco Popular de Desarollo Comunal" (People's Bank for Community Development) as a form of compulsory saving. Some workers belonged to a movement known as "Movimiento solidarista" (Solidarity Movement) and paid 5 per cent of their wages to it, their employers paying an equivalent sum.

55. Mr. RODRIGUEZ ALPIZAR (Costa Rica) said that the social insurance contributions were not used to finance a system of unemployment insurance. Even though per capita income was relatively high, wages were not always sufficient, unfortunately, to satisfy more than basic needs. The allowances granted by the State for housing applied in all families with an income below 35,000 colones, whether their members were unemployed or not. A problem arose after the grace period, however, if they were still unemployed and could not even begin to repay the housing loan. Legal proceedings could then be instituted, but in any event, the family continued to receive allowances for health and education.

56. Mr. RHENAN SEGURA (Costa Rica) said that his delegation would return at a later stage to the question of assistance to the poorest families to help children attend school.

57. Mrs. SARDENBERG, referring to the coordination mechanisms for the implementation of the rights of the child (paras. 41 to 43 of the initial report of Costa Rica), said that, in addition to the problem of coordination between governments and United Nations bodies, there was confusion in many countries regarding the obligations involved in accession to certain instruments. The Convention was a binding instrument which took precedence

over the legislation of States parties. It would be useful, therefore, for the Costa Rican Government to include the Convention in the Plan of Action it was preparing.

58. Mr. RHENAN SEGURA (Costa Rica) agreed with Mrs. Sardenberg that the Convention should be promoted at the national level; however, consciousness raising was a slow and gradual process and time would be needed for Costa Rican institutions and the people to understand the importance of that instrument. He noted that institutions concerned with children had existed in Costa Rica since 1924, when the League of Nations had begun work in that field.

59. The CHAIRPERSON proposed that the Committee should move on to the questions in the list of issues (CRC/C/4/WP.5), concerning the "Definition of the child", which read as follows:

"Definition of the child

(Art. 1 of the Convention)

1. What is meant by "child" in the meaning of article 1 of the Convention, under national legislation? When are the various legislative definitions (paras. 44-51) of a child to be harmonized to comply with article 1?

2. Please provide information on the legal age for criminal responsibility, legal and medical counselling without parental consent, sexual consent and imprisonment. Why is it difficult to supervise places in which liquor is retailed to prevent access to children? Have there been prosecutions for such violations (paras. 64-65 of the report)? What measures have been taken to bring the provisions of the Labour Code into conformity with the ILO Convention No. 138 on Child Labour ratified by Costa Rica, concerning the minimum age for admission to employment or work?

3. Please indicate whether in these various respects boys are treated differently from girls and, if so, for what reason."

60. Mr. RHENAN SEGURA (Costa Rica) said that article 17 of the Costa Rican Penal Code fixed the legal age for criminal responsibility at 17 years. That article would have to be amended to satisfy article 1 of the Convention, and the new legislation would have to take into account the difference between children and adolescents, as in other countries such as Ecuador, Peru and Brazil. In its first article, the act on the protection of minors (Ley tutelar de menores), stipulated that it was intended to cover minors under the age of 17 who were at risk. The act did not provide for a minimum age, and that gap would need to be filled since, in the current situation, all children were subject to the act from birth.

61. Regarding the provision of legal assistance, as required by article 37 (d) of the Convention, two public defenders had been appointed to

the family court of San Jose (juzgado tutelar de familia) for that purpose. However, there had been no similar decision in respect of the criminal courts (juzgados penales) outside the capital.

62. In addition, in accordance with the Convention and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), a minor was entitled to be represented by counsel throughout any legal proceedings. The Office for the Defence of Children (Defensoria de la Infancia) provided advice and information and facilitated contacts between the defenders, the accused adolescents and the parents or relations.

63. As far as medical treatment without the consent of the parents was concerned, he believed that article 12 of the Convention, whereby States parties undertook to assure the child of the right to express his views freely, in accordance with the child's age and maturity, should be taken into account. The Office for the Defence of Children had encouraged debate in matters of health and of AIDS in particular, in line with a new point of view regarding childhood and adolescence, and in the light of the Convention and other international instruments. Article 131 of the Family Code, on health care and the protection of the child's life, provided that, when hospitalization, treatment or surgical operations were necessary and essential to safeguard the minor's health or life, the decision would be made by a physician, even if the parents were opposed to it. That article departed from the Convention, which stipulated that, after a certain age, the child's opinion should be taken into account.

64. Some ambiguities remained in the Penal Code in regard to the age of sexual consent. Thus, the Penal Code spoke of "violation" (violación) if the victim, male or female, was under 12 years old and "rape" (estupro) if the victim was between 12 and 15; of "sodomy" (sodomia) if the male victim was under 15 and "corruption" (corrupcion) if the victim, male or female, was under the age of 16; in addition, it used the term "chaste female" (mujer honesta). On the other hand, it did not stipulate any minimum age of sexual consent for adolescents. The new draft Minors' Code should eliminate those ambiguities. A debate was under way on the age at which sexual consent became valid. In addition, the Legislative Assembly had before it a bill which envisaged amending the various penal categories relating to sexual offences, such as the subjective concept of chastity.

65. As far as the age at which a child could be imprisoned was concerned, although the act on protection had not yet been amended, the judges competent in that field no longer applied it in so clear-cut a manner in the case of offences committed by adolescents. However, in the absence of any programmes providing for other arrangements, appeal against deprivation of liberty became almost impossible for children who had no family or relations to watch over them.

66. The difficulty of supervising places where alcohol was sold so as to prevent children from entering them was explained by the fact that, under the current regulations, proprietors or tenants of alcohol sales outlets were liable to 2 to 30 days' imprisonment for each offence, and payment of a fine avoided the closure of their establishments. Moreover, if, in the course of a "raid", adolescents were arrested, the owners or tenants were not punished.

The minimum age for employment in Costa Rica was 15, instead of the 14 stipulated in ILO Convention No. 138 on the minimum working age, which Costa Rica had ratified. He considered that, in view of the fact that a large number of 14-year-olds were currently working, it would be better to align the Costa Rican Labour Code with that Convention. Regarding exceptions to the minimum working age he said that for the 12 to 15 age-group, the problem was not one of legislation, but rather of inadequate inspection by the Ministry of Labour of the permits issued by the National Children's Trust. Costa Rica was currently studying an ILO programme for Central America on the exploitation of children. Measures had been worked out to ensure the survival of children living and working in the street. The concept of risky or dangerous work had also been defined, with a view to allowing children to develop normally.

67. In the case of question 3, on different treatment for boys and girls, he said that, although there was no formal discrimination, it did exist. Thus, the fact of being female involved greater subjugation, particularly if a girl was pregnant or a drug addict, or if she was abused or sexually exploited. However, in the case of adult women, that subjugation was hard to define. Costa Rica had made considerable efforts to eliminate sex discrimination but these efforts would need to be continued, particularly in respect of adolescents.

68. The CHAIRPERSON thanked Mr. Rhenan Segura for the information provided and invited the members of the Committee to ask questions on the section of the list of issues entitled "Definition of the child".

69. Mrs. BELEMBAOGO said that she was worried about the minimum age for employment. She found Costa Rican legislation complicated and thought the provisions cited in paragraphs 49 and 50 of the report made the application of the labour laws more difficult; a difficulty to which the report itself drew attention. She asked why Costa Rica did not bring those provisions into line with those of ILO Convention No. 138. It would seem that the Costa Rican legislation simply confirmed the precarious economic and social position of children in the country. Moreover, the report pointed out that the population were called on to see that the law was applied. She asked whether the population was sufficiently well-informed in that regard to be familiar with the Labour Code and to ensure that it was applied by employers, if supervision by the authorities was inadequate.

70. Mrs. SANTOS PAIS said that the varying arrangements, demonstrating the concern of law-makers in the face of a complex situation, were a positive step. She was glad to learn that the provisions made no distinction between boys and girls and welcomed the importance attached to medical advice which took into account the child's age and degree of maturity. However, the definition of the child was still essential; it should be made clearer in order to ensure better protection for children.

71. Referring to paragraph 52 of the report, she said she was worried about children who worked because of the extreme poverty of their parents. Should the interest of the family take precedence over that of the children? Although it was stated at the end of the paragraph that the minimum of

compulsory instruction prescribed by the law must be provided, she wondered whether the rights of the children were secured by that, in particular the right to play and have fun - in other words, to be a child.

72. It was to be hoped that the definition of the child would be clearer in the Penal Code that was currently being drafted. She would also like more information on deprivation of freedom in the case of children between 17 and 18.

73. Mgr. BAMBAREN GASTELUMENDI, referring to question 2 in the section of the list of issues on the definition of the child (CRC/C/4/WP.5), said that he was concerned to see a comment by the Office for the Defence of Children in paragraph 77 of the report, to the effect that the greatest violations of the rights of children and adolescents were due to the State itself, the responsibility lying directly on the various institutions that were supposed to fulfil its obligations towards minors. He asked what the attitude of society was to those problems. If both institutions and society failed in their responsibilities, only the police remained to see that the law was observed.

74. Mr. RODRIGUEZ ALPIZAR (Costa Rica), replying to Mrs. Belembaogo, said that the educated part of the population were familiar with the legislation. It was the task of the National Children's Trust, and not of the Ministry of Labour, to issue work permits to minors, provided that they had completed compulsory secondary education. Moreover, the Labour Code required all enterprises to display their own work rules, which must conform to the Labour Code, subject to the penalties provided for in the Code.

75. Referring to paragraph 50 of the initial report and the provisions regarding work time for minors, he pointed out, that according to paragraph (i), minors over 15 years of age but under 18 were forbidden to work more than 7 hours per day or 42 hours per week. Maximum work time for adults was 48 hours. Thus, the Labour Code was in conformity with ILO Convention No. 138. In connection with paragraph (ii) of article 50, he recalled that it was the National Children's Trust which issued those work permits. If Mrs. Belembaogo were to consult the annexes referred to at the end of the report, she would find more information.

76. Mr. RHENAN SEGURA (Costa Rica) explained that, in the case of minors aged between 12 and 15, their own consent and that of their parents was needed for a work permit to be issued. The main difficulty was that the Ministry of Labour exercised no control in that respect, although there was specific legislation in regard to minors between 12 and 15 (prohibition of night work, dangerous work, etc.).

77. Mrs. SANTOS PAIS took up again the situation of children who were authorized to work if their families were extremely poor. In such cases, the family's economic interest could conflict with the welfare of the child. She hoped that Costa Rica, which was engaged in a process of legislative reform, would take that problem into account.

78. Mr. RHENAN SEGURA (Costa Rica) agreed with Mrs. Santos Pais that a mechanism should be set up to take into account the best interest of the child. He would convey that concern to the Costa Rican authorities, although the difficulties that the extreme poverty of a child's family created in practice must also be taken into account.

79. The CHAIRPERSON said that the remainder of the list of issues (CRC/C/4/WP.5) would be taken up at the next meeting.

The meeting rose at 12.55 p.m.